



Control Number: 37181



Item Number: 18

Addendum StartPage: 0

DOCKET NO. 37181

APPLICATION OF EAST TEXAS	§	PUBLIC UTILITY COMMISSION
TELECOMMUNICATIONS LLC FOR	§	
DESIGNATION AS AN ELIGIBLE	§	OF TEXAS
TELECOMMUNICATIONS CARRIER	§	
AND AS AN ELIGIBLE	§	
TELECOMMUNICATIONS	§	
PROVIDER	§	

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ORDER NO. 7
NOTICE OF APPROVAL FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS CARRIER AND
ELIGIBLE TELECOMMUNICATIONS PROVIDER

Procedural History

On July 2, 2009, East Texas Telecommunications LLC (ETT or the Company) filed an application for designation as an eligible telecommunications carrier (ETC) pursuant to 47 U.S.C. § 214(e) and P.U.C. SUBST. R. 26.418, as well as designation as an eligible telecommunications provider (ETP) pursuant to PURA¹ § 56.023 and P.U.C. SUBST. R. 26.417. Pursuant to 47 U.S.C. § 214(e), the Commission, either upon its own motion or upon request, shall designate qualifying common carriers as ETCs for service areas set forth by the Commission. ETT is requesting ETP/ETC designation in order to be eligible to receive federal and state universal service funding to assist it in providing telecommunication services in Texas.

ETT seeks ETC/ETP designation in the entire study area of United Telephone of Texas d/b/a Embarq (Embarq). The Company holds Service Provider Certificate of Operating Authority No. 60843.

The Commission issued Order No. 1 in this proceeding which established a procedural schedule, including deadlines for comment, motions to intervene, and published notice in the *Texas Register*. Notice was published in the *Texas Register* on July 31, 2009. The application indicates that the Office of Public Utility Counsel was served a copy of the application at the time of filing. On July 24, 2009, Commission Staff filed a motion to abate this proceeding

¹ The Public Utility Regulatory Act, TEX. UTIL. CODE ANN. §§ 11.001–66.016 (Vernon 2007 & Supp. 2008) (PURA).

pending approval of ETT's application for a service provider certificate of authority (SPCOA). Order No. 2 abated the proceeding for 30 days, until August 24, 2009. On August 24, 2009, Commission Staff filed a second motion to abate, asking the Commission to extend the abatement pending anticipated approval of ETT's SPCOA. On August 31, 2009, Order No. 3, was issued extending the abatement in this proceeding until September 15, 2009.

ETT was issued SPCOA No. 60843 on September 8, 2009 in Docket No. 37278.² On September 11, 2009, Commission Staff filed a motion to lift the abatement and proposed a procedural schedule. On September 15, 2009, Order No. 4 was issued, lifting the abatement in this proceeding and establishing a procedural schedule. On September 29, 2009, Order No. 5 deemed ETT's application sufficient for further review.

On October 9, 2009, United Telephone Company of Texas, Inc. d/b/a CenturyLink (CenturyLink) filed a motion to intervene in this proceeding. CenturyLink's motion to intervene was granted on October 21, 2009 in Order No. 6. CenturyLink asked that certain language agreed to by CenturyLink and ETT be added to the order approving ETT's application relating to commitments made by ETT relating to advertising its services. On October 19, 2009, ETT amended its application to include the commitments agreed to by ETT and CenturyLink. Commission Staff is not opposed to including the agreed language.

ETT requested that it be granted a waiver of P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) to permit it to seek designation as an ETC and ETP simultaneously. Pursuant to P.U.C. PROC. R. 22.5, there is good cause to grant the request for waiver.

No objections were filed and no hearing was requested. P.U.C. SUBST. R. 26.417(f)(2)(A) and 26.418(g)(2)(A) provide that applications for ETC/ETP designation may be reviewed administratively.

On October 20, 2009, Commission Staff filed a recommendation for approval of ETC and ETP status for ETT based on the following:

² *Application of East Texas Telecommunications LLC for Service Provider Certificate of Operating Authority*, Docket No. 37278, (Sept. 8, 2009).

Designation as Eligible Telecommunications Carrier (ETC)

To qualify for ETC status, a carrier must meet four conditions:³

1. The carrier must be a common carrier, as that term is defined by the Federal Telecommunications Act of 1996 (FTA), Section 3(10).
2. The carrier must offer the following services (requisite services),⁴ using its own facilities or a combination of its own facilities and the resale of another carrier's services:⁵
 - (a) voice grade access to the public switched network;
 - (b) local usage;
 - (c) dual tone multi frequency signaling or its functional equivalent;
 - (d) single party service or its functional equivalent;
 - (e) access to emergency services, including such services as 911 or enhanced 911;
 - (f) access to operator services;
 - (g) access to interexchange service;
 - (h) access to directory assistance; and
 - (i) toll blocking for qualifying low income customers; and
 - (j) toll control for qualifying low income customers.
3. The carrier must advertise the availability of and charges for the requisite services in a media of general distribution.⁶
4. The carrier must provide Lifeline and Link Up support, and may not collect a deposit from a customer receiving such support if the customer also elects toll blocking.⁷

ETT meets all of the above criteria. ETT will advertise the designated services and their rates through marketing advertisements using media of general distribution. ETT will provide telecommunications services throughout the entire study area either by using its own facilities or a combination of its own facilities and resale of another carrier's services. ETT will offer Lifeline Service to qualifying customers in compliance with 47 C.F.R. Part 54, Subpart E and

³ 47 C.F.R. § 54.201(b)-(d).

⁴ 47 C.F.R. § 54.101.

⁵ 47 C.F.R. § 54.201.

⁶ 47 C.F.R. § 54.201.

⁷ 47 C.F.R. § 54.405.

P.U.C. SUBST. R. 26.412. ETT will commit to offer toll blocking in accordance with 47 C.F.R. §§ 54.400 and 54.401.

In addition, ETT has committed to advertise its services at least twice a year in the following newspapers of general distribution: (1) Navasota Examiner; (2) Athens Daily Journal; (3) Commerce Journal; (4) Cooper Review; (5) Kaufman Herald; (6) Kerens Tribune; (7) Overton Press; (8) Palestine Herald Press; (9) Hamilton Herald-News; (10) Lake Country Sun; (11) Gatesville Messenger, and Star Forum; (12) Stephenville Empire-Tribune; (13) Bridgeport Index; (14) Groesbeck Journal; and (15) Bremond Press.

Staff's analysis of the application concludes that ETT does meet all the requirements established by the FCC for designation as an ETC.

Designation as Eligible Telecommunications Provider (ETP)

To qualify for ETP status, a carrier must meet the following criteria:

1. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(I) requires carriers applying for ETP status to meet the definition of a telecommunications provider as defined in PURA § 51.002(10). ETT meets this definition.
2. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(II) requires carriers applying for ETP status to show that they have been granted ETC status for federal universal service support pursuant to 47 U.S.C. § 214(e). ETP and ETC designations are being handled concurrently in this consolidated docket.
3. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires carriers to specify the small or rural ILEC service area in which they propose to be an ETP. ETT seeks designation in the entire service area of the rural incumbent local exchange carrier CenturyLink (Embarq).
4. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires applicants for ETP status to show that they offer the designated services defined in P.U.C. SUBST. R. 26.403 throughout the THCUSP or small and rural ILEC service area for which the carriers seek ETP status. The designated services required for ETP status are:⁸
 - (a) flat rate, single party service, including primary directory listings;

⁸ P.U.C. SUBST. R. 26.403(d)(1) Texas High Cost Universal Service Plan (THCUSP).

- (b) tone dialing;
- (c) access to operator services;
- (d) access to directory assistance services;
- (e) access to 911 service when provided by local authority;
- (f) dual party relay service;
- (g) ability to report service problems seven days a week;
- (h) availability of annual local directory;
- (i) access to toll services; and
- (j) Lifeline and Link Up services.

ETT states it will offer the services listed above in the wire centers for which it's requesting ETP designation.

5. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(III) requires applicants to assume the obligation to provide the services required under P.U.C. SUBST. R. 26.403 to any customer. ETT states that it meets and assumes the responsibility to offer the basic services defined in P.U.C. SUBST. R. 26.403 to all customers in its exchanges.
6. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(IV) requires applicants show that they offer the designated services through a means other than total service resale. ETT offers services through its own facilities, or through a combination of its own facilities and resale of another carrier's services.
7. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(V) – (VI) requires applicants to show that they have offered continuous services that meets the quality of service standards in P.U.C. SUBST. R. 26.52 – 26.54, and that they offer Lifeline and Link-Up services in compliance with P.U.C. SUBST. R. 26.412. ETT meets these requirements.
8. P.U.C. SUBST. R. 26.417(f)(1)(B)(i)(VII) requires applicants to advertise the availability of, and charges for, the designated services using media of general distribution. ETT meets this requirement. ETT will advertise the availability of and charges for services available to the public through the provision of marketing advertisements using a media of general distribution. In addition, ETT will advertise its services at least twice a year in the following newspapers of general distribution: (1) Navasota Examiner; (2) Athens Daily Journal; (3) Commerce Journal; (4) Cooper Review; (5) Kaufman Herald; (6) Kerens Tribune; (7) Overton Press; (8) Palestine Herald Press; (9) Hamilton Herald-News; (10) Lake Country Sun; (11) Gatesville Messenger, and Star Forum; (12) Stephenville Empire-Tribune; (13) Bridgeport Index; (14) Groesbeck Journal; and (15) Bremond Press.
9. P.U.C. SUBST. R. 26.417(d)(2) provides that the Commission may designate an additional ETP in a small or rural ILEC study area if it is in the public interest. ETT asserts that the ETC and ETP designation will be in the public interest consistent with P.U.C. SUBST. R. 26.417(d)(2).

ETT has also committed to offering the required designated services at a rate not to exceed 150% of the ILEC's tariffed rate in the same designated areas pursuant to the requirements of P.U.C. SUBST. R. 26.417(c)(1)(B).

Commission Staff's analysis of the application concludes that ETT meets the requirements established by P.U.C. SUBST. R. 26.417 for designation as an ETP.

Ordering Paragraphs

In accordance with Commission Staff's recommendation and for the reasons stated therein, pursuant to the FTA § 214(e)(2) and P.U.C. SUBST. R. 26.418, ETT's application for ETC designation is **APPROVED**, as amended, effective October 26, 2009; and pursuant to P.U.C. SUBST. R. 26.417, ETT's application for ETP designation is **APPROVED**, as amended, effective October 26, 2009. ETT is granted ETC and ETP status in exchanges/wire centers served by Embarq as outlined in this order.

Further, ETT agrees to the following commitments that were identified in the order granting iBroadband its ETC/ETP designation.⁹

- (a) provide a \$2 per month discount to customers living within the footprint of the ETT network who are over 65 years of age;
- (b) provide not only local exchange service but also offer high speed fixed wireless internet access service in some rural areas of its service territory that do not have access to any other fixed broadband internet offering, including DSL or cable modem service;
- (c) provide back-up power capability which exceeds Commission requirements;
- (d) advertise the availability of and charges for supported services on its website and in fifteen specified newspapers published inside the CenturyLink (f/k/a Embarq

⁹ Application of iBroadband Networks, Inc. for Designation as an Eligible Telecommunications Carrier and as an Eligible Telecommunications Provider, Docket No. 33481 (June 1, 2007).

and United) service area. ETT will provide the required advertisements in each of these newspapers twice a year. The specific newspapers are: (1) Navasota Examiner; (2) Athens Daily Journal; (3) Commerce Journal; (4) Cooper Review; (5) Kaufman Herald; (6) Kerens Tribune; (7) Overton Press; (8) Palestine Herald Press; (9) Hamilton Herald-News; (10) Lake Country Sun; (11) Gatesville Messenger, and Star Forum; (12) Stephenville Empire-Tribune; (13) Bridgeport Index; (14) Groesbeck Journal; and (15) Bremond Press.

SIGNED AT AUSTIN, TEXAS on the 26th day of October 2009.

PUBLIC UTILITY COMMISSION OF TEXAS


for **ANDREW KANG**
ADMINISTRATIVE LAW JUDGE